

Tuesday - April 27, 1993 - 4:00 p.m.

Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Chris Peterson gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MAY 2-8, 1993, AS "MUNICIPAL CLERKS WEEK"

Mayor Michalove proclaimed the week of May 2-8, 1993, as "Municipal Clerks Week" and presented the proclamation to City Clerk William F. Wolcott, Jr., and Deputy City Clerk Maggie Burlison. He praised these two individuals for the vital services they perform and their exemplary dedication to the Asheville community.

B. PROCLAMATION PROCLAIMING MAY 1-7, 1993, AS "RESPECT FOR LAW WEEK"

Mayor Michalove proclaimed the week of May 1-7, 1993, as "Respect for Law Week" and presented the proclamation to Police Chief Gerald Beavers and Police Officer Jeanne Marple.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO CHANGING ELK MOUNTAIN COURT TO ELK MOUNTAIN RIDGE
RESOLUTION NO. 93-49 - RESOLUTION ELK MOUNTAIN COURT TO ELK MOUNTAIN RIDGE

Mayor Michalove opened the public hearing at 4:10 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

-2-

Mr. Gary McDaniels, Street Address Administrator, said that a petition has been received from all property owners on Elk Mountain Court to change the name of their road to Elk Mountain Ridge. The property owners feel that Elk Mountain Ridge is more indicative and appropriate for this property location, which is a ridge of Elk Mountain. He said Buncombe County representatives have confirmed that Elk Mountain Ridge will not duplicate another street name elsewhere in Buncombe County.

Mayor Michalove closed the public hearing at 4:11 p.m.

Mayor Michalove said that members of Council have been furnished with a copy of the resolution and it will not be read.

Councilman Moore moved for the adoption of Resolution No. 93-49. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 120

B. PUBLIC HEARING RELATIVE TO THE PROPOSED STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES

Mayor Michalove opened the public hearing at 4:12 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Marvin Vierra, Community Development Director, said that the City has received applications from agencies seeking CDBG funds for activities that benefit low and moderate income persons. The Housing and Community Development Committee has reviewed the applications and recommended funding level for Fiscal Year 1993 CDBG entitlement as follows:

Applicant Requested Recommended

Affordable Housing Coalition \$ 50,000 \$ 20,000

A-B Community Christian Ministry 70,686 70,686

A-B Community Relations Council 14,500 14,500

Family Services Center 2,800 2,800

HACA-City Wide Rehab 598,500 320,000

HACA-Hillcrest Enrichment 30,000 30,314

HACA-Hill/Cherry St Neighborhood 384,000 225,500

HACA-HOPE-1 125,000 125,000

HACA-South Pack Square 23,000 23,000

MAGIC Gardens 16,000 -0-

-3-

Mountain Housing Opportunities 125,000 100,000

Neighborhood Housing Services 295,000 50,000

Opportunity Corporation 20,000 10,000

WNC Habitat for Humanity 200,000 175,000

HOME Project Administration 31,850

Disparity Study 38,637

C.D. Administration 154,247

Minority Business Program 71,466

C.D. Planning _____ 30,000

Total \$1,954,486 \$1,493,000

Revenue:

CDBG Entitlement \$1,481,000

Program Income 12,000

Total \$1,493,000

Ms. Roberta Greenspan, MAGIC Gardens, urged the Council to support funding for MAGIC Gardens. The funds would be used for 50 gardens this year which would produce approximately \$50,000 worth of food.

Ms. Alison Arnold, Cooperative Extension Service, spoke in support of the efforts of MAGIC Gardens and hoped the Council would fund this very worthy program.

Ms. Barbara Waterhouse urged the Council to reconsider MAGIC's CDBG application and fund the program.

Mr. John Waterhouse spoke in support of funds for MAGIC Gardens.

Mr. Jim Barrett, attorney with Pisgah Legal Services, urged the Council to direct more funding for low and moderate income housing. He also supported a strong Code enforcement program.

Mr. Curtis Venable asked the Council to reallocate the \$30,000 allotted for Community Development Planning and put it into inspections. He hoped the Council would continue to focus on funding for low and moderate income housing.

Mr. Rich Mathews, Executive Director of Neighborhood Housing Services, suggested that if the City is given money from the Economic Rehabilitation Bill, the Council consider using that money to provide affordable housing and jobs for low and moderate income people.

-4-

Mr. Monty Wooten, 81 Euclid Boulevard, spoke in support of MAGIC Community Gardens.

Vice-Mayor Ellison stated that he supported MAGIC Gardens but felt the federal money should be focused more on affordable housing.

Upon inquiry of Councilwoman Field, Mr. Vierra stated that all requests for CDBG money were reduced, some substantially.

Mayor Michalove closed the public hearing at 4:35 p.m.

C. PUBLIC HEARING RELATIVE TO THE NEW MINIMUM HOUSING CODE

Mayor Michalove opened the public hearing at 4:38 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Bob Hixson, Director of Building Inspections, gave a brief chronology of the actions which have occurred since 1990 when the City Council asked the City Manager to begin a review of the Asheville Minimum Housing Code. On March 23, 1993, the Fire Department/Building Inspections staff presented an information

session on draft revisions to Asheville's Minimum Housing Code, which was last amended in 1983. At the same time, interested persons and organizations who had expressed an interest in these revisions were furnished with copies of the revised Code, and with background information on the Code revision process.

Fire Chief John Rukavina presented three threshold questions for the Council to consider:

1. Should Asheville have a minimum housing code?

Pros-Allows for maintenance of health and safety in housing.

Maintains condition of housing stock

Provides for living environment that meets minimum community expectations

Cons-Some insurance and mortgage companies require their own inspections before they will insure a dwelling

-5-

Intrusion on the rights of private property owners

The market will assure that housing is maintained to meet demand

2. If Asheville has a minimum housing code, should it apply to rental property?

Pros-Housing market is tight enough that low income tenants must compete for available rental housing, regardless of condition

Health and safety conditions are maintained through an inspections program

Cons-The market will assure that rental property conditions meet the demand for health, safe and rental property

Many apartment owners already go through insurance, HUD, etc. inspections

3. If Asheville's minimum housing code applies to rental property, how will inspections be scheduled?

- Inspect rental property only upon complaint

- Maintain present "change-of-occupancy" standard (at this time, the code's "change-of-occupancy" standard cannot be effectively enforced, since rental property owners cannot schedule inspections between departure of tenants and arrival of new tenants among the 12,000+ rental units in Asheville.)

- Periodically inspection of all rental units, regardless of occupancy.

Councilman Peterson questioned why the City is trying to adopt a new Minimum Housing Code, when it already has one in place that is not being enforced. Mr. Hixson explained that it was at the direction of the City Council in 1990 for staff to begin reviewing the Asheville Minimum Housing Code.

When asked by Councilman Peterson about additional funding if the new Code were to be adopted, Mr. Hixson stated that he felt the Inspections Division would need 5 additional inspectors, or approximately \$150,000, who would do nothing but housing inspections.

-6-

Councilman Swicegood felt he needed to have more information as it relates to the budget, i.e., personnel and vehicles.

There was a lot of discussion amongst Council, staff and the City Attorney relative to the standards in the landlord/tenant law and the relationship of that law to the minimum housing code.

Councilman Moore stressed that the Code should have clearly definable standards and a method of enforcement.

Councilman Swicegood moved to adopt the landlord/tenant standards at it pertains to minimum housing. This motion was seconded by Councilman Peterson.

Councilman Worley suggested the Council delay action on this matter for two weeks to not only look at the landlord/tenant law, but to also look for ways to possibly lessen the regulations in the present Minimum Housing Code.

Councilman Worley moved to table the motion until May 11, 1993, in order to give the Council an opportunity to look at the issues relative to the landlord/tenant law. This motion was seconded by Councilwoman Field and carried unanimously.

Mr. Scott Dedman, Pisgah Legal Services, slowed a short slide presentation of many deteriorating rental structures due to the City being unable to enforce its minimum housing code in a comprehensive way.

Mr. Jim Barrett, housing law attorney for Pisgah Legal Services, read a prepared statement summarizing three main points - (1) minimum housing codes are crucial for our community health and safety; (2) our current voluntary inspection system is not working; and (3) we are not catching the deterioration of housing in time to prevent the houses from being lost.

Mr. Mike Tavener, President of the Asheville Board of Realtors, said that they had studied this issue for years and summarized by saying that the Board of Realtors are opposed to any required Certificate of Occupancy (hereinafter "CO") whether as a component of a revised housing code, or as part of the existing housing code. He spoke about several issues that supported their opposition of any CO.

-7-

Mr. Peter Placentino, President of the Apartments Association of North Carolina, urged the Council to review the landlord/tenant law and not impose any additional regulations.

Mr. Rick Hopkins, Apartments Associations of North Carolina, said that the money expended by the landlords for the additional CO's obviously will be passed along to the tenants, but the additional expenditures might also push the landlords into a different business, thus making affordable housing hard to find. He felt that the landlord/tenant law was already a mechanism in place and tenants have a lot of other remedies available to them if they live in substandard housing.

Ms. Minnie Jones felt that the existing Code should be strictly enforced so that safe, affordable housing can be realized for everyone.

Mr. Bert Sonner, Appalachian Realty, recommended removal of the CO requirement and suggested it be replaced by a minimum standards sanitation and structural integrity inspection. He said that inspection would apply to rental units only and be performed every three years, free of charge. He stated that all other

CO inspections should be voluntary and at the sole discretion of the property owner, except for complaints.

Mr. Rich Mathews, Executive Director of Neighborhood Housing Services, read a prepared statement in which he spoke in support of strengthening the housing code. He felt the key to the housing code's success will be the continued hiring and training of competent housing inspectors and enforcement officers.

Ms. Cindy Weeks, Director of Mountain Housing Opportunities, supported the strengthening of the housing code.

Ms. Beth Maczka, Chairman of the Affordable Housing Coalition, read a resolution adopted by the Coalition resolving that the Coalition seeks the adoption of the proposed Asheville Housing Code with three changes - (1) "58 degrees" be changed to "65 degrees" in Section 1.5. on page 12, so that residents will not be tempted to use unsafe portable heaters for supplemental heat; (2) "R-19" be changed to "R-30" in Section 4.19 on page 23, so that residents will not be tempted to use unsafe portable heaters for supplemental heat and since the federal government -8-

recommends "R-38" for this region; and (3) that regular inspections of rental properties occur every 2 years because of the age of the housing stock and the effect of turnover on the condition of homes.

Ms. Molly Sandridge, property manager, briefed the Council on the CO requirements in the other two cities in North Carolina. She felt that since the mandatory seller disclosure act will go into effect in 1994, and since a large percentage of home buyers currently have written into their sales contract a provision requiring a private home inspection, a CO inspection is unnecessary and costly.

Ms. Carolyn Wallace, Citizens for Quality Development, spoke about the importance of a strong, fair housing code.

Mr. George Morosani, property owner, was concerned about the mandatory inspection of apartments. He felt that the existing rules and regulations were sufficient, but needed to be fine tuned.

Ms. Bonnie Bailey, President of the Greater Asheville Area Apartment Association, said that they Association feels that there is a need for a minimum housing code to deal with the abandoned or substandard housing, however, they feel that the City does not need a required systematic inspection of all rental dwellings. They feel that these inspections will only be an undue tax burden on the owner that will be passed onto the renters.

Mr. Kit Garren, rental property manager in Asheville, spoke in opposition of the proposed code, specifically the CO requirement. He felt the code is unenforceable especially as it relates to obtaining the inventory of rental units in the City.

Ms. Valerie Muhlninghaus spoke in favor of a minimum housing code to protect the rights of poor people who are not aware of all the rights they do have.

Ms. Faye Boone, apartment manager, felt there were many apartment managers in Asheville who care about their tenants and make sure that they live in an environment where they are safe, happy and content. She felt that the City did not need any more housing laws, but felt people should be educated on the alternatives available to them.

Ms. Kimberly Fink-Adams, Mediation Center, felt that there are several avenues

for people to resolve housing issues, but without an enforceable code, not only are the -9-

inspectors frustrated, but tenants are frustrated too. She strongly suggested money be spent in the Inspections Division to enable inspectors to enforce the Code.

Mr. Bill Goacher, rental property owner, asked the Council to reconsider the whole idea of a CO. He urged Council to repeal the present Code and do not pass any revised one.

Mr. George Beverly, 300 Executive Park, felt that the City needed some type of minimum housing code, but not the proposed one. He gave several reasons why he felt the City did not need the existing Code provision which provides for the CO process. He then passed out a packet of information which included the Selected Provisions of the Residential Rental Agreements Act, N. C. Gen. Stat. secs. 160A-441 through 160A-445, and a copy of a Bill entitled "An Act to Create the Residential Property Disclosure Act."

Ms. Glenda Lloyd, tenant in Kenilworth, was concerned that tenants, barely making ends meet now, would be paying the costs of landlord's being forced to make improvements to meet the new Code.

Ms. Betty Moore, Beverly-Hanks, felt the original concept of the existing Code is not out of proportion. She felt the City did not need any more requirements than it already has in place.

Mr. Bob Tucker, Carolinas Real Estate Investment Association, gave reasons why they are opposed to the existing Code, the new proposed Code and especially the present CO requirements.

Ms. Rebecca Tucker, manager of rental properties, said that there is a lack of low income housing in the City, but investors do not want to put there money into the City housing stock because they know it will cost them almost triple to keep their properties rented in the City.

Ms. Betty Williams spoke about how unfair the present CO requirement is to property owners.

Mr. Don Noakley, commercial broker in the City, felt that the City had too many regulations in place now and felt the City should abolish the CO requirement.

Ms. Jimmie Lockman, Vice President of the Coalition of Asheville Neighborhoods, spoke in support of the strengthening of the housing code and efforts of enforcement.

-10-

Mr. Curtis Venable, attorney, voiced his concerns over the lack of specific standards in the landlord/tenant law and supported strict enforcement of the housing code.

Ms. Joanne Coates, Manager of the Meadows Apartments, spoke about the need for decent affordable housing, but felt that the CO requirement is not the answer.

Ms. Leni Sitnick, 90 Gertrude Place, hoped the Council would work with the County Commissioners to avoid both governing body meetings being held at the same time on the same day. She spoke in support of strong enforcement of the Code and encouraged the Council to consider the additional inspectors needed to enforce the Code in a consistent manner.

A page of comments was submitted by Mr. Eric M. Sifford summarized as follows: (1) there needs to be some protection offered to the owner if complaints are repeatedly made and no violations exist; (2) there should be no need to reinspect a building after the building fails to receive a CO at the first inspection, until remedies have been undertaken; and (3) detailed reports should be delayed until the rehabilitation is complete and a realistic inspection can be made, instead of requiring the report at the time of the CO inspection.

Mayor Michalove closed the public hearing at 7:00 p.m.

III. OLD BUSINESS:

A. THIRD READING OF ORDINANCE NO. 2022, ORDINANCE AMENDING ZONING PROPERTY LOCATED AT 16 STERLING STREET

Mayor Michalove said that the public hearing on this matter was held on April 6, 1993, at which time the ordinance passed on first and second reading.

On a roll call vote of 7-0, Ordinance No. 2022 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 212

B. THIRD READING OF ORDINANCE NO. 2018, AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 67 MT. CLARE AVENUE

Mayor Michalove said that the public hearing on this matter was held on March 30, 1993, at which time the ordinance passed on first and second reading.

-11-

On a roll call vote of 7-0, Ordinance No. 2018 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 204

C. RESOLUTION NO. 93-50 - RESOLUTION AMENDING THE FEES AND CHARGES MANUAL TO SET FORTH FEES FOR FIRE INSPECTION SERVICES

Fire Chief John Rukavina said that on December 10, 1991, the North Carolina State Building Code Council adopted one of the most stringent mandatory fire inspection programs in the United States.

He said that under Section 107 of Volume 1 of the State Building Code, virtually every structure except one- and two-family homes must be inspected on a one-, two- or three-year schedule (the frequency depends on occupancy type).

At this time, Asheville does not have sufficient fire inspections resources to meet the Building Code mandate. On March 2, 1993, the City Council reviewed an inspection-fee proposal that applied "flat" fees, based on frequency of inspection. City Council members indicated at a flat-fee system would treat a large hospital, for example, exactly the same as a small business in terms of cost.

Since that meeting Fire staff have reviewed fire inspection fee practices in North Carolina. They found that (1) most jurisdictions that charge for inspections use a flat fee, based on ease of application; and (2) the two jurisdictions that use fees based on occupancy type base those fees on a combination of building size and complexity of inspections.

Based on this information, a revised fee schedule has been proposed. The fees now range from \$12.50 to \$100.00. This fee schedule takes into account the following elements: (1) building size; (2) to a lesser extent, inspection complexity; (3) the estimated number of occupancies of each type; and (4) the cost-recovery goals of the fee system--to generate revenues to cover the additional costs brought about by the State Building Code's mandatory fire inspection program.

As inspections are undertaken under this program, additional information (precise square-foot building sizes, time required for inspections as it relates to occupancy type, etc.) will be obtained for future analysis of this mandatory inspection fee program.

-12-

Upon inquiry of Vice-Mayor Ellison, Fire Chief Rukavina said that it is premature at this time, but there is a possibility that after the 120 firefighters are certified to do the inspections, combined code enforcement visits could be conducted, thereby imposing only one fee.

It was the consensus of Council to inform the public as much as possible to let them know about this new service that is required by State law and how the inspection process will be implemented.

Fire Chief Rukavina explained that the Fire Code is only a maintenance code and their goal is to inform people what they need in terms of fire protection.

Vice-Mayor Ellison was concerned about how the housing code inspections will relate to the fire code inspections in residential rental units. Fire Chief Rukavina suggested not charging a fee on inspections of residential rental apartments at this time until further information could be furnished to the Council. He did explain, however, that the inspections will continue, only the City will not be charging a fee for them.

Councilman Peterson was concerned about more fees being imposed upon the taxpayers and suggested that since the Council is in the process of looking at the 1993-94 budget, this would be a good item for the Council to consider.

City Manager Bean said that the \$76,000 will have to either be taken from property taxes (which will be more easier to collect but all property owners will have to pay based on the value of their property), or by a fee which more equitably distributes the true cost of doing the service.

Mayor Michalove said that members of Council have been furnished with a copy of the resolution and it will not be read.

Vice-Mayor Ellison moved to adopt Resolution No. 93-50 effective May 27, 1993, excluding the fees to be charged for residential rental units until further information can be furnished to the Council. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 121

-13-

IV. NEW BUSINESS:

A. ORDINANCE NO. 2024 - ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE CITY OF ASHEVILLE; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE

MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE

City Attorney Slawter said that this ordinance will adopt and enact a new Code of Ordinances for the City of Asheville, published by the Municipal Code Corporation. This Code is effective up to and including September 29, 1992, and will be supplemented at least annually.

Mayor Michalove said members of Council have been furnished with a copy of the ordinance and it will not be read.

Councilwoman Field moved to for the adoption of Ordinance No. 2024. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 2024 passed on its first reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 2024. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 2024 passed on its second reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2024. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 2024 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 216

B. INTRODUCTION OF BOND ORDER AUTHORIZING THE ISSUANCE OF \$1,300,000 STREET AND SIDEWALK BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA

City Manager Bean said that on April 6, 1993, the Council approved a resolution directing the Finance Director -14-

to apply to the Local Government Commission for the issuance of \$1,300,000 in two-thirds bonds. The Local Government Commission is expected to give conditional approval pending receipt of paying agent letters verifying actual payments on bond principal during Fiscal Year 1993. This action provides for the formal introduction of the \$1,300,000 two-thirds bonds for streets and sidewalks.

Upon inquiry of Ms. Leni Sitnick, City Manager Bean explained that all plans and specifications are routed through the Utilities Coordinating Committee before any bids are let in order to minimize cutting into new streets and sidewalks.

Councilman Moore moved to accept the introduction of the bond order. This motion was seconded by Councilman Worley and carried unanimously.

C. RESOLUTION NO. 93-51 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER THE ANNEXATION OF AN AREA KNOWN AS THE OTEEN II AREA AND FIXING THE DATE OF A PUBLIC HEARING ON THE QUESTION OF ANNEXATION

Ms. Patty Tallerday, Senior Planner, said that this resolution states the intent of the City to consider the annexation of an area east of the City limits. The boundaries of the annexation are, generally, the City limit line to the west and south; Miller Road, Lower Grassy Branch Road and Hickory Tree Road

to the north; and the Swannanoa River to the east. The area includes The Summit, the VA Hospital, the Evergreen Mobile Home Park and several other housing developments.

She said a public hearing date on the question of annexation is set for June 15, 1993. A report setting forth plans for the extension of municipal services to the area proposed for annexation will be presented for adoption by City Council at least 30 days prior to the date of the public hearing.

Mayor Michalove said that members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-51. This motion was seconded by Councilwoman Field and carried on a 5-2 vote, with Councilmen Peterson and Swicegood voting "no".

RESOLUTION BOOK NO. 20 AT PAGE 125

-15-

D. RESOLUTION NO. 93-52 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER THE ANNEXATION OF AN AREA KNOWN AS THE BEAVERDAM RUN AREA AND FIXING THE DATE OF A PUBLIC HEARING ON THE QUESTION OF ANNEXATION

Ms. Patty Tallerday, Senior Planner, said that last year the City of Asheville initiated proceedings for the annexation of the Beaverdam Run Condominiums. Prior to adoption of the annexation ordinance, a resolution was adopted by the Beaverdam Run Condominium Association and the owner/developer in which they agreed not to contest the annexation of their community and to voluntarily annex any undeveloped portions of the development if the effective date of the annexation could be postponed until June, 1994.

She said that this resolution states the intent of the City to consider the annexation of an area northeast of the City limits. The boundaries of the annexation are, generally, the City limit line to the west; Beaverdam Run Condominiums to the north and east, including properties along Sunnyside Lane; and Beaverdam Road to the south.

She said a public hearing date on the question of annexation is set for June 15, 1993. A report setting forth plans for the extension of municipal services to the area proposed for annexation will be presented for adoption by City Council at least 30 days prior to the date of the public hearing.

Mayor Michalove said that members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-52. This motion was seconded by Councilwoman Field and carried on a 5-2 vote, with Councilmen Peterson and Swicegood voting "no".

RESOLUTION BOOK NO. 20 AT PAGE 128

E. HAW CREEK MEWS SUBDIVISION

Mr. Gerald Green, Senior Planner, said that Sicash Builders, Inc., is seeking final plat approval of the subdivision of an 18.4 acre parcel located north of the intersection of Beverly Road and Avon Road. The property is zoned R-3 residential and is surrounded by single-family residential properties, except to the west where commercial development exists. The proposal is to divide the property into 2 lots (1 at 10.6 ac. and 1 at 7.8 ac.).

-16-

The entire property is being developed as Haw Creek Mews Apartments, a multi-family residential community. Phase I of the development is located within the smaller lot and has been constructed. Phase II, which is the larger lot, remains mostly undeveloped. It is our understanding that the subdivision is being proposed for financing reasons.

All utilities have approved the availability of services to the site and the final plat does meet the requirements of the Zoning Ordinance and Subdivision Regulations.

At their April 7, 1993, meeting, the Planning and Zoning Commission approved the preliminary plat of the Haw Creek Mews Subdivision.

Upon inquiry of Mr. Johnny Hayes, Mr. Green explained that this action is not an expansion of the development, only approval of the final plat and in this case the developers are subdividing the property for financing reasons.

Vice-Mayor Ellison moved to approve the final plat for Haw Creek Mews Subdivision. This motion was seconded by Councilwoman Field and carried unanimously.

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE APRIL 6, 1993, CITY COUNCIL MEETING

B. RESOLUTION NO. 93-53 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, REGARDING BOND ORDER AUTHORIZING THE ISSUANCE OF \$1,300,000 STREET AND SIDEWALK BONDS OF THE CITY OF ASHEVILLE, SETTING A PUBLIC HEARING FOR MAY 11, 1993, AND DIRECTING PUBLICATION OF A NOTICE OF SAID PUBLIC HEARING

Summary: This resolution provides for a public hearing on May 11, 1993, on the issuance of \$1,300,000 two-thirds bonds for streets and sidewalks. It directs the City Clerk to publish the Bond Order with a Notice of Public Hearing on or about April 30, 1993. It also directs the Finance Director to submit a Statement of Debt to the Local Government Commission.

RESOLUTION BOOK NO. 20 - PAGE 132

-17-

C. MOTION SETTING A PUBLIC HEARING FOR MAY 11, 1993, RELATIVE TO AMENDING THE ZONING ORDINANCE TO ALLOW CHANGEABLE COPY SIGNS ON MULTIPLE TENANT DEVELOPMENT SIGNAGE

D. MOTION SETTING A PUBLIC HEARING FOR MAY 11, 1993, RELATIVE TO APPROVAL OF THE PRELIMINARY PLAT AND A VARIANCE FOR BEAVER CREEK SUBDIVISION

E. MOTION SETTING A PUBLIC HEARING FOR MAY 11, 1993, RELATIVE TO A VARIANCE FOR WESTLAND SUBDIVISION

F. RESOLUTION NO. 93-54 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THOMPSON-GORDON-SHOOK ENGINEERS, INC., FOR REPLACEMENT OF THE GLENDALE AVENUE BRIDGE OVER THE SWANNANOA RIVER.

Summary: A suitable agreement has been negotiated with Thompson-Gordon-Shook Engineers, Inc., for design of a replacement bridge over the Swannanoa River at Glendale Avenue. The bridge project is included for funding in the N.C. Department of Transportation's Transportation Improvement Program. Eighty

percent is to be provided by the Federal Highway Administration's Off-System Bridge Program and 20% City funds. This cost sharing will include design, right-of-way construction, and project administration.

RESOLUTION BOOK NO. 20 - PAGE 133

G. RESOLUTION NO. 93-55 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE DOCUMENTS FOR CONVEYANCE OF TAX LOTS TO THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE

Summary: The City holds an interest in various parcels of land by virtue of tax foreclosures conducted by Buncombe County. The lots are held in the name of the County for the joint benefit of the County, the City and the Asheville City Schools. The Housing Authority has requested the County to convey to the Housing Authority four tax foreclosure lots in the Montford Community (Margaret and Morrow Streets) for use in a low income subsidized housing program. This resolution will authorize the Mayor to execute a deed and any other documents necessary for the transfer to the Housing Authority of any interest that the City may have in those four lots.

RESOLUTION BOOK NO. 20 - PAGE 134

-18-

H. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AMENDMENT #1 TO AN ENGINEERING SERVICES AGREEMENT WITH THOMPSON-GORDON-SHOOK ENGINEERS FOR ENGINEERING SERVICES FOR THE STREETS AND SIDEWALKS IMPROVEMENT PROGRAM

This item was deleted from the agenda.

I. RESOLUTION NO. 93-56 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SETTLE CLAIMS FOR EASEMENT ACQUISITIONS WITH PRIVATE PROPERTY OWNERS

Summary: From time to time the City of Asheville acquires easements from private property owners for a public purpose. At times differences arise between the City and private property owners concerning the fair market value of the easement acquisition that can be settled. This resolution will authorize the City Manager to settle those differences in an amount not to exceed \$15,000.

RESOLUTION BOOK NO. 20 - PAGE 135

Councilman Moore moved for the adoption of the consent agenda. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. RESOLUTION NO. 93-57 - RESOLUTION OF INTENT TO CLOSE ATKINSON STREET, VIEW STREET AND HAZEL AVENUE AND SETTING A PUBLIC HEARING ON THIS MATTER FOR JUNE 8, 1993

Councilman Peterson explained that the purpose of this resolution is to turn back over to the Housing Authority all the streets located in Hillcrest, pursuant to the request of the residents in Hillcrest.

Councilman Peterson moved for the adoption of Resolution No. 93-56. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 136

B. COMMENTS RELATIVE TO ASHEVILLE TRANSIT AUTHORITY

Ms. Laura Deaton, North Carolina Alliance for Transportation Reform, read a prepared statement asking the Council to (1) condemn the firing of Mark Rickards for a letter to the editor; (2) request that the city contractor, -19-

CCL Management, immediately reinstate Mr. Rickards; (3) explore ways to cancel the contract if CCL Management refuses to reinstate Mr. Rickards; (4) contact Mr. Rickards and ask him for his side of the story; and (5) issue a written and public report on the role the ATA and chairperson Wanda Winslow played in the firing of Mr. Rickards.

Councilman Swicegood stated that he has, in fact, talked to Mr. Rickards concerning the situation.

Councilman Worley shared his personal and professional concerns over this issue.

Vice-Mayor Ellison expressed his personal feelings and stated that the City Attorney is looking into some of the concerns addressed.

Councilman Moore stated his personal feelings was assured that the Asheville Transit Authority did not act improperly in the Mark Rickards' matter.

Councilwoman Field said she was convinced that the Asheville Transit Authority, as a group, did not do anything improper in this matter. She said that she would not vote to give CCL Management an extension on their contract if she was still on Council.

Mr. Monroe Gilmore felt the City Council was responsible to give a report to the public concerning this matter.

Mr. Wally Bowen, 238 Forest Hill Drive, read a prepared statement which, among other things, requested the City Council to hold a public hearing on this issue.

Ms. Leni Sitnick, 90 Gertrude Place, urged the City Council to look into this situation further.

Councilman Peterson assured the audience that the Council has not closed the door on this issue. He also stated that he would be opposed to dealing with CCL Management in the future.

Ms. Melissa Lane, 340 School Road, read a statement from the WNC Chapter of the American Civil Liberties Union. She stated the following concerns surrounding the firing of Mark Rickards: (1) freedom of speech; (2) a fair and open hearing; and (3) accountability.

-20-

C. COMMENTS CONCERNING DAY AND TIME OF COUNTY COMMISSION MEETING AND CITY COUNCIL MEETING

Mr. Chris Johansen urged the Council to work with the Buncombe County Commissioners to avoid having the City Council meeting and the County Commissioners meeting on the same day at the same time.

D. CLAIMS

City Manager Bean said the following claims were received by the City during

the week of April 5-9, 1993: Patricia O'Donnell (Inspections), Patricia Coxey (Streets), Jerry Dockery (Water), and Columbia Bible College (Water).

He said the following claims were received by the City during the week of April 19-23, 1993: Frank Hyatt (Water), Bruce O'Connell (Water), and Carol Alberice (Parks).

He said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 8:45 p.m.

CITY CLERK MAYOR
